

M-08-530

TM:MBM
F.#2008R00785

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - - X TO BE FILED UNDER SEAL

UNITED STATES OF AMERICA

- against -

ELIYAHU EZAGUI,

Defendant.

COMPLAINT AND
AFFIDAVIT IN SUPPORT
OF AN ARREST WARRANT

(T. 18, U.S.C., § 1341)

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EASTERN DISTRICT OF NEW YORK, SS:

SARA A. LEVINSON, being duly sworn, deposes and says that she is a Postal Inspector with the United States Postal Inspection Service (the "USPIS"), duly appointed according to law and acting as such.

On or about and between December 1998 and December 2004, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant ELIYAHU EZAGUI, together with others, did knowingly and intentionally execute a scheme and artifice to defraud mortgage lenders, and for the purpose of doing so, placed in any post office and authorized depository for mail matter, any matter and thing to be

sent and delivered by the Postal Service, and took and received therefrom.

(Title 18, United States Code, Section 1341)

The source of my information and grounds for my beliefs are as follows:

1. I have been a Postal Inspector with the USPIS for approximately 27 years and I am currently assigned to the Brooklyn Fraud Team, which investigates mail fraud violations under Title 18 U.S.C. § 1341 and related statutes. In this position, I have conducted physical surveillance, interviewed witnesses, reviewed extensive documents obtained through the service of subpoenas, and used other investigative techniques to secure relevant information for use in criminal prosecutions.

2. My knowledge of the information set forth in this affidavit is based upon my personal participation in this investigation and in numerous other investigations of fraud perpetrated against financial institutions, including bank fraud, my review of records and reports, my review of recorded conversations between cooperating witnesses and the subjects of the investigation, my discussions with witnesses and victims, my conversations with other law enforcement agents involved in this investigation and similar investigations, my conversations with

and review of information provided by financial institutions and my law enforcement experience and training.

3. Because this affidavit is being submitted for the limited purpose of establishing probable cause to support the issuance of arrest warrants, it does not include all of the facts I have learned during the course of this investigation. Where actions, conversations and statements of others are reported in this affidavit, they are reported in substance and in part unless otherwise indicated.

4. The defendant ELIYAHU EZAGUI is a principal and sponsor of Kingston Gardens Condominium, located at 605-633 East New York, Brooklyn, New York ("Kingston"), and Lefferts Gardens Condominium, located at 770 Lefferts Avenue, Brooklyn, New York ("Lefferts").

The Mortgage Fraud Scheme

5. The defendant's scheme to commit mortgage fraud involved soliciting option agreements from numerous individuals to purchase a condominium at Kingston or Lefferts prior to the condominiums' construction. Option prices were between \$90,000 and \$160,000 per unit. In exchange, the individuals who signed option agreements (the "purchasers") received contracts which entitled them to the deed for a specified unit within either Kingston or Lefferts upon completion of construction.

6. Upon completion of Kingston and Lefferts, the defendant ELIYAHU EZAGUI provided access to the units that the purchasers had bought. The purchasers then began living in those units, believing themselves to be the rightful owners. However, the defendant ELIYAHU EZAGUI failed to provide to the purchasers deeds to the condominiums.

7. Unbeknownst to the purchasers, after the execution of the option agreements and after the purchasers paid for and took control over the units, the defendant ELIYAHU EZAGUI deeded the properties to straw buyers in order to obtain mortgage loans. In some cases, EZAGUI later deeded the units back to himself and obtained mortgage loans in his own name.

8. Among other things, the defendant ELIYAHU EZAGUI and the straw buyers claimed on their mortgage applications that the property to be purchased was to be their primary residence. For several years, the defendant ELIYAHU EZAGUI made monthly principal plus interest payments on these mortgages. However, in 2007, the defendant ceased making monthly mortgage payments. The lenders then initiated foreclosure proceedings, upon which the purchasers learned of the defendant's scheme.

The Fraudulent Transactions

9. On February 18, 2003, an individual known to me (hereinafter "Victim") purchased option agreements from the

defendant ELIYAHU EZAGUI for two adjoining apartments, 3L and 3R, located at 613 East New York Avenue in the Kingston development. The purchase price was \$160,000 per apartment. The agreements stated that title would be conveyed for the two apartments no later than three years from the date of agreement. Victim took possession of the apartments on that day, and has maintained control over the apartments until the present.

10. On December 24, 2004, the defendant ELIYAHU EZAGUI filed a mortgage application with Ameriquest Mortgage Company falsely stating that ELIYAHU EZAGUI would occupy apartment 3L and use the property as his principal residence within 60 days. EZAGUI did not intend to occupy the unit.

11. On June 13, 2002, the defendant ELIYAHU EZAGUI filed a mortgage application with Olympia Mortgage Corporation falsely stating that ELIYAHU EZAGUI would occupy apartment 3R and use the property as his primary residence within 60 days. EZAGUI did not intend to occupy the unit.

12. The defendant ELIYAHU EZAGUI was never a resident of either apartment 3L or 3R, and Victim never received title to either property. As a result of his false application, ELIYAHU EZAGUI obtained a mortgage in the amount of \$459,000 on apartment 3L, and a mortgage in the amount of \$340,000 on apartment 3R.

13. As a result of the defendant ELIYAHU EZAZGUI's filing of false mortgage applications, the application for apartment 3L at 613 East New York Avenue was delivered by the United States Postal Service on or about April 29, 2005, and the application for apartment 3R at 613 East New York Avenue was delivered by the United States Postal Service on or about October 20, 2003.

WHEREFORE, I respectfully request that an arrest warrant be issued so that the defendant ELIYAHU EZAGUI be dealt with according to law.


Sara A. Levinson
Postal Inspector
USPIS

Sworn to before me this
6th day of June, 2008

THE HONORABLE JOAN M. AZRACK
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK